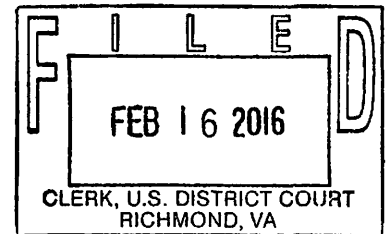


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



LEE A. MOONEY,

Plaintiff,

v.

Civil Action No. 3:14CV800

ERNEST L. TONEY, SR., et al.,

Defendants.

MEMORANDUM OPINION

Lee A. Mooney, a former Virginia inmate proceeding pro se and in forma pauperis, filed this 42 U.S.C. § 1983 action. In order to state a viable claim under 42 U.S.C. § 1983, a plaintiff must allege that a person acting under color of state law deprived him or her of a constitutional right or of a right conferred by a law of the United States. See Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 658 (4th Cir. 1998) (citing 42 U.S.C. § 1983). Accordingly, by Memorandum Order entered on August 27, 2015, the Court directed Mooney to file a particularized complaint. Mooney complied with the Court's directive; however, the Particularized Complaint failed to allege how each named Defendant was personally involved in the deprivation of Mooney's rights. Accordingly, by Memorandum Order entered on December 3, 2015, the Court directed Mooney to submit a new particularized complaint within fourteen (14) days of the date of entry thereof. The Court warned Mooney

that the failure to submit a new particularized complaint would result in the dismissal of the action.

On December 15, 2015, the United States Postal Service returned the December 3, 2015 Memorandum Order to the Court marked, "Not at this address" and "RETURN TO SENDER." (ECF No. 14.) After this date, Mooney failed to contact the Court to provide a current address. By Memorandum Order entered on January 19, 2016, the Court noted that Mooney's failure to contact the Court and provide a current address indicated his lack of interest in prosecuting this action. See Fed. R. Civ. P. 41(b).

Nevertheless, because Mooney had earlier provided a second address, the Clerk mailed the January 19, 2015 Memorandum Order and re-mailed the December 3, 2015 Memorandum Order to Mooney at the second address he provided. The Court directed Mooney that, in his response to the December 3, 2015 Memorandum Order, Mooney must provide one address that is his current address. The Court also informed Mooney that failure to comply with the directives of the January 19, 2016 Memorandum Order and the December 3, 2015 Memorandum Order within fourteen (14) days of the date of entry thereof, would result in dismissal of the action. See Fed. R. Civ. P. 41(b).

More than fourteen (14) days have elapsed since the entry of the January 19, 2016 Memorandum Order. While Mooney updated his address with the Court, Mooney failed to submit a

particularized complaint or otherwise respond to the December 3, 2015 and January 19, 2016 Memorandum Orders. Accordingly, the action will be dismissed without prejudice.

The Clerk is directed to send a copy of this Memorandum Opinion to Mooney.

It is so ORDERED.

Date: February 16, 2016
Richmond, Virginia

_____/s/ *REP*
Robert E. Payne
Senior United States District Judge